

REMARKS

In the Office Action dated June 23, 2009, in which claims 1-25 were pending, the Examiner:

objected to the Specification due to improperly formatted headings;

objected to claims 2-25 due to informalities;

rejected claims 7-9 and 11-25 under 35 U.S.C. § 101 as being directed to non-statutory subject matter;

rejected claims 1-9, 14, 17-19 and 23-25 under 35 U.S.C. § 112, second paragraph, as being indefinite or unclear; and

rejected claims 1-25 under 35 U.S.C. § 102(e) as being anticipated by published U.S. Patent Application No. 2003/0163431 to Ginter et al. ("Ginter").

Applicants hereby amend claims 1-2, 4, 6-7, 10-11, add claims 26 and 27 and cancel claims 3, 5, 8-9 and 12-25. Claims 1-2, 4, 6-7, 10-11, 26 and 27 are presented for consideration, as amended, in view of the following remarks.

The Examiner objected to the Specification due to improperly formatted headings. Applicants herein amend the Specification to address the formatting of the headings. Accordingly, Applicants respectfully request that the objection to the Specification be withdrawn.

The Examiner objected to claims 2-25 due to informalities. Applicants herein amend claims 2-25 in view of the identified informalities, or cancel claims 2-25. Accordingly, Applicants respectfully request that the objection to claims 2-25 be withdrawn.

The Examiner rejected claims 7-9 and 11-25 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. First, the Examiner asserts that claims 7-9 and 17 fail to point out which statutory class the claim subject matter belongs to. Applicants herein amend claim 7 to clarify that the claimed method recites steps performed using specific machines, and cancel claims 8-9 and 17.

Accordingly, Applicants respectfully request that the rejection of claims 7-9 and 17 under 35 U.S.C. § 101 be withdrawn.

Second, the Examiner asserts that claims 11-18 and 21-25 are directed to non-statutory subject matter. Applicants herein amend claims 11 and 14 in view of the rejection to place claims 11 and 14 in Beauregard claim form, and cancel claims 12-13 and 15-25 (In re Beauregard, 53 F.3d 1583 (Fed. Cir. 1995)).

Accordingly, Applicants respectfully request that the rejection of claims 11-25 under 35 U.S.C. § 101 be withdrawn.

The Examiner rejected claims 1-9, 14, 17-19 and 23-25 under 35 U.S.C. § 112, second paragraph, as being indefinite. First, the Examiner asserts that claims 7-9 and 17 fail to point out which statutory class the claimed subject matter belongs to. Applicants herein amend claim 7 in view of the rejection, and cancel claims 8-9 and 17. Accordingly, Applicants respectfully request that the rejection of claims 7-9 and 17 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Second, the Examiner asserts that claims 1-6 and 18-19 are indefinite for reciting “means for” without a corresponding structure disclosed in the Specification. Applicants herein amend claims 1-2, 4 and 6 to remove the “means” language, and cancel claims 3, 5 and 18-19. Accordingly, Applicants respectfully request that the rejection of claims 1-6 and 18-19 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Third, the Examiner asserts that claims 1, 14 and 17-18 are unclear for reciting “and/or”. Applicants herein amend claims 1 and 14 in view of the rejection, and cancel 17-18. Accordingly, Applicants respectfully request that the rejection of claims 1, 14 and 17-18 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Fourth, the Examiner asserts that claims 23-25 are indefinite for failing to include a transitional phrase. Applicants herein cancel claims 23-25. Accordingly, Applicants respectfully submit that the rejection of claims 23-25 under 35 U.S.C. § 112, second paragraph, is moot.

The Examiner rejected claims 1-25 under 35 U.S.C. § 102(e) as being anticipated by published U.S. Patent Application No. 2003/0163431 to Ginter et al. ("Ginter"). The independent claims are discussed, in turn, below.

Claims 1-2, 4 and 6

Applicants' amended claim 1 recites, *inter alia*, a machine tool protected against improper activation comprising an improper-activation safety module that determines the successful decryption of the machine control parameters after decryption also on the basis of finding a signature of a unit authorized for activating the machine tool.

Ginter does not show or disclose each recitation of amended claim 1. For instance, Ginter is directed to an asymmetric encryption method and authentication procedure using the same (Ginter, paragraphs [0173, [0525], [1619] and [1636]). However, Ginter does not show or disclose the usage of a sender's identification or a signature to authenticate the execution of machine control parameters on a machine tool, in any way. Thus, Ginter does not show or disclose *finding a signature of a unit authorized for activating the machine tool*, as recited in claim 1, in any way.

This is not remarkable because Ginter discloses a "new kind of ... virtual distribution environment ... that secures, administers, and audits electronic information use" (i.e., motion pictures, magazines, newspapers, etc.) in trying to solve the "fundamental problem for electronic content provider ... extending their ability to control the use of proprietary information" (Ginter, paragraphs [0011]-[0012]). Thus, Ginter is directed to preventing operational materials 3472 from being used on another appliance, for instance, to prevent copying.

In view of this, at best, Ginter discloses a signature of the appliance 600. However, the appliance 600 of Ginter is the receiving unit, not the sending unit. Thus, Ginter does not show or disclose a signature of a unit authorized for activating the machine tool, as recited in amended claim 1

Further, the signature of Ginter is not a *signature* in the sense of a cryptographic signature and is not suitable to authenticate operational materials 3472 on the appliance 60 (Ginter, paragraph 1910). Thus, Ginter does not show or disclose the improper-activity safety module that determines the successful

decryption of the machine control parameters after decryption also on the basis of finding a signature, as recited in amended claim 1.

Therefore, Ginter discloses an authentication of the receiving appliance, not the operational materials 3472. In other words, Ginter, like Applicants' admitted prior art, discloses an authentication of a target machine, not a signature of a sender in a transmitted signal.

Therefore, Ginter does not show or disclose each recitation of amended claim 1. Since claims 2, 4 and 6 depend from claim 1 and include additional recitations thereto, Applicants respectfully submit that the rejection of claims 1-2, 4 and 6 under 35 U.S.C. § 102(e) as being anticipated by Ginter is improper for at least these reasons, and should be withdrawn.

Claims 7, 10-11 and 26-27

Applicants' amended claim 7 recites, *inter alia*, a method of avoiding improper machine activation by machine control parameters of a machine tool comprising providing the first encoded machine control parameters with a sender identification of a sender, and authenticating a sender by the sender's identification.

Paragraph [0030] of the Specification states that "the machine control parameters are also signed by means of a signature method using a sender identification" (Specification, paragraph [0030]). Thus, the use of a signature and *sender's identification* are linked within the present invention as process or product by process and processed element.

Therefore, as discussed above, Ginter does not show or disclose *providing the first encoded machine control parameters with a sender identification of a sender and authenticating a sender by the sender's identification*, as recited in amended claim 7.

Therefore, Ginter does not show or disclose each recitation of amended claim 7. Since claims 10-11 and 26-27, either directly or indirectly, from claim 7 and include additional recitations thereto, Applicants respectfully submit that the rejection of claims 7, 10-11 and 26-27 under 35 U.S.C. § 102(e) as being anticipated by Ginter is improper for at least these reasons, and should be withdrawn.

Claim 14

Applicants' amended claim 14 recites, *inter alia*, a computer readable medium for reading instructions into a machine tool, wherein the machine control parameters for the machine tool are provided with a sender identification of the sender and, signed in this way, are only encoded using the encryption key that is assigned to the machine tool and known for the encryption.

As discussed above, Ginter does not show or disclose *machine control parameters for the machine tool which are provided with a sender identification of the sender and, signed in this way, are only encoded using the encryption key that is assigned to the machine tool and known for the encryption*, as recited in amended claim 14.

Therefore, Ginter does not show or disclose each recitation of amended claim 14. Accordingly, Applicants respectfully submit that the rejection of claim 14 under 35 U.S.C. § 102(e) as being anticipated by Ginter is improper for at least these reasons, and should be withdrawn.

Applicants respectfully submit that nothing in the current Amendment constitutes new matter. Support for the amendments may be found in, at least, claims 1-2 and 4-16, and paragraphs [0020]-[0021].

Having traversed each objection and rejection, Applicants respectfully request claims 1-2, 4, 6-7, 10-11, 14, 26 and 27 be passed to issue.

Serial No.: 10/575,524

Office Action dated: June 23, 2009

Response to Office Action dated: December 18, 2009

Applicants hereby petition for a three-month extension of time to respond to the present Office Action. Applicants' Attorneys hereby authorize the Commissioner to charge the three-month extension fee of \$1,110.00 to the Deposit Account 13-0235. Applicants believe that no other fees are due in connection with this Amendment and Response. If any fees are deemed necessary, please charge them to Deposit Account 13-0235.

Respectfully submitted,

By: /John C. Linderman/
John C. Linderman
Registration No. 24,420
Applicant's attorney

McCormick, Paulding & Huber LLP
CityPlace II, 185 Asylum Street
Hartford, Connecticut 06103-4102
(860) 549-5290